

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

DOUGLAS K. CASEY,
BOP #35005510,

Plaintiff,

vs.

WAYNE REAUD, CENTRAL
INTELLIGENCE AGENCY, FEDERAL
BUREAU OF INVESTIGATION, et al,
Defendants.

Case No.: 3:23-cv-1439-GPC-SBC

**ORDER DISMISSING CIVIL
ACTION FOR FAILURE TO PAY
FILING FEES REQUIRED BY
28 U.S.C. § 1914(a)**

Douglas K. Casey (“Plaintiff”), an inmate proceeding pro se, has filed a civil rights complaint pursuant to 42 U.S.C. § 1983, along with a letter and “supplemental document.” *See* ECF Nos. 1–5. Plaintiff has not prepaid the \$402 civil filing fee required by 28 U.S.C. § 1914(a), however, and has not filed a Motion to Proceed In Forma Pauperis (“IFP”) pursuant to 28 U.S.C. § 1915(a).

I. Failure to Pay Filing Fee or Request IFP Status

All parties instituting any civil action, suit or proceeding in a district court of the United States, except an application for writ of habeas corpus, must pay a filing fee of \$402. *See* 28 U.S.C. § 1914(a). An action may proceed despite a plaintiff’s failure to prepay the entire fee only if he is granted leave to proceed IFP pursuant to 28 U.S.C. § 1915(a).

1 *See Andrews v. Cervantes*, 493 F.3d 1047, 1051 (9th Cir. 2007); *Rodriguez v. Cook*, 169
2 F.3d 1176, 1177 (9th Cir. 1999). However, if the Plaintiff is a prisoner, and even if he is
3 granted leave to commence his suit IFP, he remains obligated to pay the entire filing fee in
4 “increments,” *see Williams v. Paramo*, 775 F.3d 1182, 1185 (9th Cir. 2015), regardless of
5 whether his case is ultimately dismissed. *See* 28 U.S.C. § 1915(b)(1) & (2); *Taylor v.*
6 *Delatoore*, 281 F.3d 844, 847 (9th Cir. 2002).

7 Plaintiff has not prepaid the \$402 in filing and administrative fees required to
8 commence this civil action, nor has he submitted a properly supported Motion to Proceed
9 IFP pursuant to 28 U.S.C. § 1915(a).¹ Therefore, his case cannot yet proceed. *See* 28 U.S.C.
10 § 1914(a); *Andrews*, 493 F.3d at 1051.

11 **II. Conclusion and Order**

12 For the reasons set forth above, the Court hereby:

13 (1) **DISMISSES** this action *sua sponte* without prejudice for failure to pay the
14 \$400 civil filing and administrative fee or to submit a Motion to Proceed IFP pursuant to
15 28 U.S.C. §§ 1914(a) and 1915(a); and

16 (2) **GRANTS** Plaintiff **forty-five (45) days** leave from the date this Order is filed
17 to: (a) prepay the entire \$402 civil filing and administrative fee in full; or (b) complete and
18 file a Motion to Proceed IFP which includes a certified copy of his trust account statement
19 for the 6-month period preceding the filing of his Complaint. *See* 28 U.S.C. § 1915(a)(2);
20 S.D. Cal. CivLR 3.2(b).

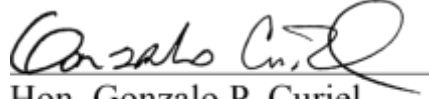
21 **IT IS FURTHER ORDERED** that the Clerk of the Court shall provide Plaintiff
22 with this Court’s approved form “Motion and Declaration in Support of Motion to Proceed
23 *In Forma Pauperis*.” If Plaintiff fails to either prepay the \$402 civil filing fee or complete
24 and submit the enclosed Motion to Proceed IFP **within 45 days**, this action will remain
25 _____

26 ¹ In addition to the \$350 statutory fee, civil litigants must pay an additional administrative fee of
27 \$52. *See* 28 U.S.C. § 1914(a); Judicial Conference Schedule of Fees, District Court Misc. Fee
28 Schedule, § 14 (eff. Dec. 1, 2020). The additional \$52 administrative fee does not apply to persons
granted leave to proceed IFP. *Id.*

1 dismissed without prejudice based on Plaintiff's failure to satisfy 28 U.S.C. § 1914(a)'s fee
2 requirements and without further Order of the Court.

3 **IT IS SO ORDERED.**

4 Dated: August 17, 2023

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6 Hon. Gonzalo P. Curiel
7 United States District Judge
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